

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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SUZANNE M. BROWN,  
Plaintiff

v.

JOSEPH B. HART, D.D.S.  
and  
NEW ENGLAND DENTAL CENTER, LLP  
Defendants

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Civil Action No. 1:10-cv-10693

***COMPLAINT AND DEMAND FOR JURY TRIAL***

Plaintiff, as and for her Complaint herein against Defendants, through her undersigned attorneys, allege:

***PARTIES***

1. The Plaintiff Suzanne M. Brown resides at 74 Cranfield Street, New Castle, County of Rockingham, State of New Hampshire 03854.

2. The Defendant Joseph B. Hart, D.D.S., is a dentist licensed to practice in the Commonwealth of Massachusetts who resides in the Commonwealth with his principal place of business located at New England Dental Center, LLP, 665 Boylston Street, Boston, County of Suffolk, Commonwealth of Massachusetts 02116.

3. The Defendant New England Dental Center, LLP is a limited liability partnership of dentists with its principal office located at 665 Boylston Street, Boston, County of Suffolk, Commonwealth of Massachusetts 02116.

***JURISDICTION AND VENUE***

4. The Court has diversity jurisdiction of this action pursuant to 28 U.S.C. § 1332, in that the action is between citizens of different States, and the amount sought to be recovered exceeds the sum and value of \$75,000, exclusive of interest and costs.

5. The Court has personal jurisdiction over Defendant, Joseph B. Hart, in that Defendant has his primary dwelling residence in and conduct business in the Commonwealth of Massachusetts.

6. Venue is proper pursuant to 28 U.S.C. § 1391(a).

***NATURE OF THE ACTION***

7. This is a cause of action for negligence, misrepresentation, and violation of Massachusetts General Laws, Chapter 93-A §2.

***FACTS COMMON TO ALL CLAIMS***

8. On or about June 2008 Plaintiff sought treatment at the Defendant Joseph B. Hart's office located New England Dental Center, LLP, 665 Boylston Street, Boston, Massachusetts.

9. At her initial visit with Dr. Hart, the Plaintiff informed Dr. Hart that she wanted a healthy, beautiful smile and informed Dr. Hart that she had a periodontal problem.

10. On or about June 25, 2008 Dr. Hart recommended a dental Treatment Plan for Plaintiff to perform restorative procedures upon Plaintiff's teeth numbers 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30, and 31, which included the placement of crowns, veneers and/or lumineers, and subepithelial tissue grafting, and was told that the restorative procedures to be performed on Plaintiff's teeth would "restore her bite" and give her "bite longevity" and a "youthful appearance".

11. On July 2, 2008 Plaintiff accepted the dental Treatment Plan proposed by Dr. Hart and Dr. Hart subsequently performed dental treatments upon Plaintiff's teeth numbers 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30, and 31, which included the placement of crowns, veneers and/or lumineers, and one subepithelial tissue graft.

12. Dr. Joseph Hart charged the Plaintiff and the Plaintiff paid \$61,028.00 in advance for the dental treatments performed and to be performed by Dr. Hart on Plaintiff's teeth in 2008.

13. Dr. Joseph Hart prepared Ms. Brown's teeth for application of veneers and then sent her home with no temporary restoration coverage, thereby causing her severe physical pain due to extreme sensitivity of her teeth and emotional distress due to her appearance.

14. Upon information and belief, Dr. Joseph Hart charged the Plaintiff and the Plaintiff paid for subepithelial tissue grafting to seven of Plaintiff's teeth, however, the Defendant performed a subepithelial tissue graft to only one of Plaintiff's teeth after placement of crowns on her teeth.

15. Upon information and belief, Dr. Joseph Hart did not address Plaintiff's gingival disease before initiating definitive restorative treatment and failed to ensure that dental composites were covered by the restorations and as a result leakage under the veneers occurred which caused tooth decay at teeth numbered 8, 22 and 26.

16. Upon information and belief, Dr. Hart failed to ensure that there was complete coverage of Plaintiff's tooth surfaces (incisal edges) and old restorations (composites on interproximal surfaces of teeth #8, 9, and 22).

17. Upon information and belief, Dr. Hart failed to perform an occlusal adjustment upon the Plaintiff's teeth to ensure that her bite was even and as a result Plaintiff's teeth #15 and 18 hit first, and Plaintiff's #15 crown is fractured and veneer #10 is cracked.

18. Plaintiff has endured extreme pain in her teeth on both sides after chewing food and her teeth are sensitive to air and liquids as a result of the dental treatment received from Dr. Joseph Hart.

19. Plaintiff Suzanne Brown suffered serious, permanent and painful bodily injuries due to the Defendant Joseph B. Hart's negligence in the performance of the dental procedure to apply crowns and veneers and/or lumineers to Plaintiff's teeth numbered 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30, and 31, and has incurred substantial medical, dental and hospital expenses as a result of these injuries, and will in the future be compelled to expend money for rehabilitation, medical, and dental treatment to cure her injuries and eliminate her pain and disability. Ms. Brown has, and will continue in the future, to suffer loss of enjoyment of life, and loss of earnings. Ms. Brown has difficulty performing daily living activities and there is the likelihood in the future that she will suffer from illness or disability as a result of her bodily injury.

***COUNT I***  
***NEGLIGENCE***

20. The Plaintiff repeats and realleges paragraphs 1 through 19 of this complaint and incorporate the same herein by reference.

21. The Defendant, Joseph B. Hart, owed Suzanne Brown a duty to provide dental services to Plaintiff in a safe manner and to exercise reasonable care and skill of a licensed dentist practicing in the field of cosmetic dentistry in his performance of the dental procedures to properly prepare Plaintiff's teeth by performing periodontal treatment on Plaintiff's teeth prior to performing restorative procedures to Plaintiff's teeth and to properly perform the application of crowns and veneers and/or lumineers to Plaintiff's teeth, so as to not cause damage to Plaintiff's teeth.

22. Nevertheless and wholly unmindful of his duty, the Defendant Joseph B. Hart failed in the performance of said duties by failing to provide dental services to plaintiff in a safe manner and to exercise reasonable care and skill of a licensed dentist practicing in the field of cosmetic dentistry by his failure to treat Plaintiff's gingival disease prior to application of crowns and veneers and/or lumineers to Plaintiff's teeth, so as to not cause damage to Plaintiff's teeth.

23. As a direct and proximate cause of the Defendant, Joseph B. Hart's breach of duty, Ms. Brown suffered serious and painful personal injuries, dental bills, loss of enjoyment of life, loss of income, likelihood of illness or disability in the future as a result of her bodily injuries and future medical and dental costs to treat Ms. Brown's injuries.

24. Ms. Brown is entitled to full, fair and adequate damages for the injuries resulting from the defendant's negligence including, but not limited to, injuries received, medical and dental bills, loss of enjoyment of life, pain and suffering, loss of income, likelihood of illness or disability in the future as a result of her bodily injury. All damages being past, present and future in a sum within the minimum jurisdictional limits of this Court.

***COUNT II***  
***MISREPRESENTATION***

25. The Plaintiff repeats and realleges paragraphs 1 through 24 of this complaint and incorporate the same herein by reference.

26. Defendant Joseph B. Hart knowingly or with reckless disregard for the truth made statements and representations to Plaintiff regarding the condition of Plaintiff's teeth as requiring full restoration and his skill and ability to perform the dental procedures required to provide Plaintiff with "a healthy and beautiful smile", including but not limited to the treatment of Plaintiff's gingival

disease and epithelial skin grafts and the application of crowns and veneers and/or lumineers to Plaintiff Suzanne Brown's teeth.

27. Upon information and belief, Defendant Joseph B. Hart at the time he performed the dental procedures to apply crowns and veneers and/or lumineers to Plaintiff's teeth in 2008 did not possess the knowledge and/or skill required of a licensed dentist practicing in the field of cosmetic dentistry to safely and properly perform such procedures upon Plaintiff's teeth.

28. Defendant Joseph B. Hart's statements and representations to Plaintiff regarding the condition of Plaintiff's teeth as requiring full restoration by application of crowns and veneers and/or lumineers in order to provide Plaintiff with "a healthy and beautiful smile" and for cosmetic purposes and regarding Defendant's ability to perform such dental procedures upon Plaintiff were made with the intent to induce the Plaintiff's reliance on such statements and representations.

29. Plaintiff, in fact and justifiably, relied on Defendant Joseph B. Hart's statements and representations to Plaintiff regarding the condition of Plaintiff's teeth as requiring crowns and veneers and/or lumineers in order to provide Plaintiff with "a healthy and beautiful smile" and for cosmetic purposes and regarding Defendant's ability to perform such dental procedures upon Plaintiff.

30. Plaintiff suffered substantial damages as a result of her reliance on Defendant Joseph B. Hart's statements regarding the condition of Plaintiff's teeth as requiring crowns and veneers and/or lumineers in order to provide Plaintiff with a healthy and beautiful smile and for cosmetic purposes and regarding Defendant's ability to perform such dental procedures upon Plaintiff, including injuries received, medical and dental bills, loss of enjoyment of life, pain and suffering, loss of income, likelihood of illness or disability in the future as a result of her bodily injury. All

damages being past, present and future in a sum within the minimum jurisdictional limits of this Court.

***COUNT III***  
***VIOLATION OF MASSACHUSETTS GENERAL LAWS CHAPTER 93-A § 2***

31. The Plaintiff repeats and realleges paragraphs 1 through 30 of this complaint and incorporate the same herein by reference.

32. The Defendants, Joseph Hart and New England Dental Center, LLP, have engaged in unfair competition and deceptive trade practices by intentionally and wrongfully advertising and misrepresenting his skill and ability to perform the dental procedures to apply crowns and veneers and/or lumineers thereby inducing plaintiff to agree to permit defendant Joseph Hart, DDS, to perform such procedures upon her, so as to benefit from the same to the detriment of the plaintiff and by charging the Plaintiff for services not rendered, including but not limited to the performance of periodontal treatment and subepithelial skin grafts and as set forth in the June 25, 2008 Treatment Plan.

33. That said actions of the defendants constitute unfair trade practices and unfair competition within the meaning of and in violation of Massachusetts General Laws Chapter 93-A § 2.

***COUNT IV***  
***VICARIOUS LIABILITY UNDER THE DOCTRINE OF RESPONDEAT SUPERIOR -***  
***NEW ENGLAND DENTAL CENTER, LLP***

34. The Plaintiff repeats and realleges paragraphs 1 through 33 of this complaint and incorporate the same herein by reference.

35. In 2008, on the dates that Dr. Hart provided dental treatment to Suzanne Brown, the Defendant Joseph Hart, DDS, was a partner of the New England Dental Center, LLP, a

partnership of associated dentists, who performed services on behalf of New England Dental Center, LLP, as a dentist to properly diagnose and treat Suzanne Brown as set forth in the June 25, 2008 dental treatment plan.

36. The Defendant New England Dental Center, LLP is vicariously liable under the Doctrine of Respondeat Superior for the negligence of its partner dentist, Dr. Joseph Hart, by his improper and negligent dental treatment provided to Suzanne Brown.

37. As the direct, proximate and foreseeable result of the New England Dental Center, LLP's vicarious liability for the negligence of its partner dentist, Dr. Joseph Hart, Suzanne Brown suffered serious and painful personal injuries, dental bills, loss of enjoyment of life, loss of income, likelihood of illness or disability in the future as a result of her bodily injuries and future medical and dental costs to treat Ms. Brown's injuries.

38. Ms. Brown is entitled to full, fair and adequate damages for the injuries resulting from the defendant's negligence including, but not limited to, injuries received, medical and dental bills, loss of enjoyment of life, pain and suffering, loss of income, likelihood of illness or disability in the future as a result of her bodily injury. All damages being past, present and future in a sum within the minimum jurisdictional limits of this Court.

***DAMAGES COMMON TO ALL COUNTS***

39. Plaintiff repeats and realleges paragraphs 1 through 38 of this Complaint and incorporate the same herein by reference.

40. As a direct and proximate result of Defendants' aforesaid conduct, the Plaintiff sustained serious and permanent injuries, resulting in her suffering great physical pain as a consequence of the injuries she sustained as a result of the treatment received from Dr. Joseph Hart.



41. As a direct and proximate result of Defendants' aforesaid conduct, the Plaintiff incurred medical, hospital, dental, and other reasonable expenses caused by the injuries suffered by the Plaintiff.

42. As a direct and proximate result of the Defendants' aforesaid conduct, the Plaintiff incurred economic damages, including lost wages.

43. Defendants' aforesaid conduct wrongfully caused Plaintiff to suffer physical pain and suffering and emotional distress and mental anguish.

44. Based on the foregoing facts, Defendants Joseph Hart and New England Dental Center, LLP are liable to the Plaintiff for substantial and considerable damages.

WHEREFORE, the Plaintiff Suzanne Brown prays that this Honorable Court:

- A. Grant the Plaintiff's Complaint;
- B. Issue judgment against the Defendants for Plaintiff's damages, including interest and attorney's fees and costs incurred; and
- C. Issue such other Order as justice requires.

Respectfully submitted,

SUZANNE BROWN,

By her attorneys,  
SHAINES & McEACHERN, PA

Date: April 23, 2010

/s/ Robert A. Shaines  
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